

05-381 WEYERHAEUSER COMPANY V. ROSS-SIMMONS HARDWOOD LUMBER CO., INC.

LOWER COURT CASE NUMBER: 03-35669, 03-35984

DECISION BELOW: 411 F.3d 1030 (9th Cir. 2005)

QUESTION PRESENTED

The question in this case is whether a plaintiff alleging predatory *buying* may, as the Ninth Circuit held, establish liability by persuading a jury that the defendant purchased more inputs "than it needed" or paid a higher price for those inputs "than necessary," so as "to prevent the Plaintiffs from obtaining the [inputs] they needed at a fair price"; or whether the plaintiff instead must satisfy what the Ninth Circuit termed the "higher" *Brooke Group* standard by showing that the defendant (1) paid so much for raw materials that the price at which it sold its products did not cover its costs and (2) had a dangerous probability of recouping its losses.

Certiorari granted 6/26/06.